

Chapter 40. Ethics

[HISTORY: Adopted by the Common Council of the City of Middletown 11-3-1980.
Amendments noted where applicable.]

Article I. Code of Ethics

§ 40-1. Declaration of policy.

The proper operation of the City government requires that public officials and employees be independent, impartial and responsible; that governmental policies and decisions be made in the proper channels of the governmental structure; that public office and employment not be used for personal gain; and that the public have confidence in the integrity of its government. The purposes of this Code of Ethics are to set forth standards of ethical conduct; to assist public officials and employees in establishing guidelines for their conduct; and to foster the development and maintenance of a tradition of responsible and effective public service.

§ 40-2. Definitions.

[Amended 12-7-1992]

As used in this chapter, unless a different meaning is required by the context or is specifically prescribed, the following words, terms or phrases shall have the following meanings:

AGENCY

Includes the Common Council, the Board of Education and all other agencies, authorities, boards, commissions, committees, departments and offices of the City of Middletown without exception.

CONFIDENTIAL INFORMATION

Any information which is not available to the general public under the General Statutes and which is obtained only by reason of an official's or employee's position.

FAMILY

Spouse, parent, children, siblings and their spouses or children.

FINANCIAL INTEREST

Any interest which will result in a monetary or other material benefit to an official or employee, either directly or indirectly (which has a value of more than \$50 to the official or employee), other than his duly authorized salary or compensation for his services to the City, and which is not common to the interest of all other citizens of the City. The following financial interests shall be imputed to be those of an official or employee of the City:

A.

That of a spouse or child of an official or employee.

B.

That of any prime contractor or subcontractor of the City in which the official or employee or any member of his immediate family has any direct or indirect interest as the proprietor, by ownership of stock or partnership interest.

OFFICIALS or EMPLOYEES

All officials, officers, members and employees of the government of the City of Middletown and of all its agencies, whether elected or appointed, whether paid or unpaid, whether permanent, temporary or alternate.

PERSONAL INTEREST

As distinguished from financial interest shall include but not be limited to an interest arising from a family relationship or business association.

TRANSACTION

The offer of or the sale, purchase or furnishing of any real or personal property, or services, by or to any person or entity directly or indirectly, as vendor or vendee, prime contractor, subcontractor or otherwise, for the use and benefit of the City or of such other person or entity, for a valuable consideration.

§ 40-3. Applicability.

All City officials and employees shall be bound by this chapter.

§ 40-4. Standards of conduct.

[Amended 12-1-1980; 12-7-1992]

A.

Officials and employees have an obligation to act morally and honestly in discharging their responsibilities.

B.

Officials and employees shall conduct themselves with propriety, discharge their duties impartially and fairly and make continuing efforts toward attaining and maintaining high standards of conduct.

C.

Each official serving on a multi-member agency, authority, board, commission or committee is expected to devote the time and effort necessary to the successful functioning of such agency, authority, board, commission or committee.

D.

No official or employee shall use, directly or indirectly, his City position to secure any financial interest or personal interest for himself or others.

E.

No official or employee shall, for any reason, use or attempt to use his position to improperly influence any other official or employee in the performance of his official duties.

F.

City officials and employees shall treat each member of the public professionally, courteously, impartially and fairly. No City official or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to every other citizen.

§ 40-5. Use of City resources.

No official or employee shall use or permit the use of City-owned material or City personnel in any manner prohibited by state statute, City ordinance or administrative regulation. City-owned

property and City personnel may be used only for the conduct of official business, except where such resources are available to the public generally.

§ 40-6. Conflict of interest.

[Amended 12-1-1980]

A.

No official or employee shall engage in any employment or business which conflicts with the proper discharge of his official duties.

B.

No official or employee shall have a financial or personal interest, directly or indirectly, in any transaction with any City agency as to which he has the power to take or influence official action. A contract in violation of this section may be declared void at the option of the Common Council.

C.

If an official or employee has any direct or indirect financial or personal interest in the outcome of any matter coming before the agency of which he is a member or by which he is employed, such official or employee shall disclose on the record of the agency or to his superior or other appropriate authority the existence of such financial or personal interest. An official or employee having such a financial interest shall not engage in deliberations concerning the matter, shall disqualify himself from acting on the matter and shall not communicate about such matter with any person who will participate in the action to be taken on such matter. Unless any such personal interest is sufficiently remote from the matter, such official or employee shall not engage in deliberations concerning the matter, shall disqualify himself from acting on the matter and shall not communicate about such matter with any person who will participate in the action to be taken on such matter.

D.

No official or employee, whether paid or unpaid, shall represent or appear in behalf of any individual or entity, either personally or through an associate or partner, against the interests of the City or any of its agencies in any action or proceeding in which the City or any of its agencies is a party, unless the action or proceeding is sufficiently remote from his official duties so that no actual conflict of interest exists.

E.

No official or employee, whether paid or unpaid, shall represent or appear in behalf of any individual or entity before any agency of the City, or take any appellate proceedings from any action of any such agency, either personally or through an associate or partner, unless there is first a full disclosure and unless further the matter or transaction for which he is appearing is sufficiently remote from his official duties so that no conflict of interest exists and the officer or employee is not in a position to exert improper influence.

F.

Nothing herein shall be interpreted or construed to prohibit any official or employee from exercising his legal rights as to his own personal interests in processing a claim against or request to the City or any of its agencies, or in defending a claim made against him by the City or any of its agencies, or to prohibit an official or employee from testifying as a witness in any administrative or judicial proceeding.

§ 40-7. Confidential information.

A.

No official or employee shall, without legal authority, disclose confidential information concerning the personnel, property, government or affairs of the City.

B.

No official or employee shall use confidential information to advance his own financial or personal interests or the financial or personal interests of any other person.

§ 40-8. Gifts, gratuities and favors.

No official or employee shall accept, from any one source during any period of one year, any thing or things exceeding \$50 in total value as a gift, gratuity or favor, whether in the form of a service, loan, thing or promise, from any person who or entity which to his knowledge is interested directly or indirectly, in any manner whatsoever, in a transaction with any City agency as to which he has the power to take or influence official action.

§ 40-9. Distribution of Code of Ethics.

[Added 12-7-1992; amended 6-2-1997; 11-5-2007 by Ord. No. 32-07; 5-2-2013 by Ord. No. 10-13; 5-2-2013 by Ord. No. 11-13]

The Director of Human Resources shall cause a copy of the Code of Ethics for the City of Middletown to be distributed to each employee of the City within four months of the enactment of this section. Thereafter each newly elected or appointed official or newly hired employee shall receive a copy of the Code of Ethics before entering upon the duties of their office or appointment. The Mayor's Office shall distribute copies to elected officials. A signed and dated receipt by each employee and elected official shall be kept on record in the applicable office, Human Resources Division of the Office of the General Counsel for City employees and Mayor's office for elected officials, for the duration of employment or term of office.

Article II. Board of Ethics

[Amended 12-1-1980; 12-30-1980; 4-1-1985; 2-6-1989; 12-7-1992]

§ 40-10. Establishment.

There is hereby established a Board of Ethics which shall be charged with the administration of the Code of Ethics.

§ 40-11. Composition; terms of office; qualifications.

A.

The Board of Ethics shall consist of five regular members and two alternate members, to be appointed by the Mayor with the consent of the Common Council. No more than three regular members and one alternate member may be members of the same political party. Each regular and alternate member shall, at the time of his appointment and throughout his term on the Board,

be an elector of the City who is known for his personal integrity and sound judgment, who is not an employee or official of the City, who is not the chairman, vice chairman, secretary or treasurer of any political party, who has no claim pending against the City and who has no contractual relationship with the City. Both the regular and alternate members of the Board shall serve without compensation for their services.

B.

The terms of office for the regular and alternate members of the Board shall be for five years from December 1 of the year of appointment. Initially, in 1980, one regular member shall be appointed for a term of one year, one regular member for a term of two years, one regular member for a term of three years, one regular member for a term of four years and one regular member for a term of five years. Each year thereafter a regular member shall be appointed to serve for a term of five years. Initially, in 1988, one alternate member shall be appointed for two years and one alternate member shall be appointed for three years. After the initial terms of office end, each alternate member shall be appointed to serve for a term of five years. If a vacancy occurs before the end of a term for a regular and/or alternate member, a member shall be appointed for that vacancy by the Mayor with the consent of the Common Council for the unexpired portion of the term.

C.

Alternate members may attend all meetings and executive sessions of the Board. When seated in place of a regular member, the alternate member shall have and exercise all powers and duties as set forth in this chapter. Alternate members shall act as a regular member, when needed, on a rotating basis.

§ 40-12. Officers and meetings.

A.

Annually at its first meeting after December 1, the Board shall elect a Chairman, Vice Chairman and Secretary. The Chairman shall preside at all meetings. The Vice Chairman shall perform the duties of the Chairman in the absence of the Chairman. The Secretary shall sign all approved minutes.

B.

The Chairman or, in his absence or inability to act, the Vice Chairman shall call such meetings as are necessary for the conduct of the Board's business. A meeting shall also be called if requested by any three members of the Board.

§ 40-13. Powers and duties.

A.

The Board of Ethics shall have the power and duty to give advisory opinions on proposed action when requested to do so by an official or employee; to investigate and hear complaints concerning allegations of unethical conduct as to any official or employee of the City and render its opinion thereon; and to make recommendations to the Common Council for changes in the Code of Ethics. The Board may adopt such rules as it deems necessary for the conduct of its business. The findings of the Board are advisory and it does not have any power to take disciplinary action.

B.

Pursuant to C.G.S. § 7-148h and any amendments thereto or substitutes therefor, the Board may, after a finding of probable cause, issue subpoenas or subpoenas duces tecum, enforceable upon application to the Superior Court, to compel the attendance of persons at hearings and the production of books, documents, records and papers.

§ 40-14. Advisory opinions.

A.

Advisory opinion. Before requesting an opinion, the official or employee shall consult about the matter with the director of his department or other supervisory authority. Requests for advisory opinions shall be made in writing on a form prescribed by the Board and signed by the official or employee. All relevant facts shall be stated. The Board may require additional information. The Board shall meet within 15 days of receipt of all information and shall render its decision in writing within 15 days of the meeting, a copy of which shall be sent to the one requesting it. A copy of each decision shall be filed with the Mayor's office and City/Town Clerk's office. An official or employee who in good faith relies on an advisory opinion of the Board shall not be disciplined if such action is thereafter found to be a violation of this chapter.

B.

Required vote for advisory opinion. No advisory opinion shall be made except upon the concurring vote of three members of the Board.

§ 40-15. Investigation of complaints.

[Amended 10-4-1993; 1-3-1994; 2-6-1995; 8-2-1999]

A.

The Board of Ethics shall have the power to investigate a written complaint concerning official conduct of any City official or employee. Any person (complainant) may file a complaint with the Board on a form prescribed by the Board. The complaint shall be signed under penalty of false statement and shall state the name of the person accused (respondent) and the specific acts alleged to constitute the violation. Specific acts alleged to constitute the violation(s) of the Code of Ethics must be stated or the complaint will be rejected by the Board. The complainant must sign an acknowledgment that the complaint and its contents are confidential unless and until the Board makes a finding of probable cause or the respondent requests that they be made public.

B.

If the investigation of the complaint is confidential, the allegations in the complaint and any information supplied to or received from the Board shall not be disclosed during the investigation to any third party by a complainant, respondent, witness, designated party or Board or staff member.

C.

Written acknowledgment of receipt of the complaint shall be sent to the complainant, and a copy of the complaint shall be sent by the Board to the respondent within seven days of the date that the Board meets and reviews the complaint. Upon receipt the respondent may either request a hearing or may submit a written statement as to whether the complaint states a violation. The time for response shall be set by the Board but shall not be less than seven days nor more than 30 days.

D.

If after investigation the Board determines that the complaint does not allege facts sufficient to constitute a violation of the Code of Ethics, it shall dismiss the complaint. Within three days after the end of its investigation the Board must notify the complainant and respondent of its findings and provide a summary of those findings.

E.

If the Board determines that the complaint alleges sufficient facts to state a violation, the Board shall fix a date for the commencement of a hearing on the complaint, which shall not be more than 60 days from the finding of probable cause. The Board shall make public such a finding of probable cause not later than five business days after the termination of the investigation. At such time the entire record of the investigation shall become public. The Board shall give notice of the date fixed for the hearing at least 14 days before the date of the hearing. The hearing may be continued from time to time in the discretion of the Board. The hearing shall be open to the public.

F.

At such hearing oral evidence shall be taken under oath. The complainant and respondent shall have the right:

(1)

To be represented by legal counsel;

(2)

To present evidence; and

(3)

To examine and cross-examine witnesses.

G.

The hearing shall be recorded by a stenographer or a recording device provided by the Board. If the Board does not provide a stenographer, the complainant or respondent may employ a stenographer at his own expense. If a transcript is made, a copy shall be supplied to the Board and another made available to the other party upon payment of 1/2 of the cost of obtaining the transcript.

H.

The Board shall render its findings in writing within 30 days after the conclusion of the hearing on the complaint. A copy of the findings shall be sent to the complainant and respondent. If the Board's decision is that the complaint was justified a copy of the decision shall be sent to the Mayor, Common Council or other authority for action in accordance with the appropriate ordinance, Charter provision or state statute.

I.

No finding of a violation of this chapter shall be made except upon the concurring vote of three members of the Board.

J.

No complaint may be made under this section except within three years next after the violation alleged in the complaint has been committed.

§ 40-16. Reimbursement for expenses incurred in defense of complaint.

A.

Upon the written request of an official or an employee against whom a complaint has been filed with the Board of Ethics, the City shall provide reimbursement of all reasonable expenses

incurred in preparation for defense and in the defense of such complaint, including attorneys' fees, provided, in the event the Board of Ethics makes a finding of a violation of the Code of Ethics by such official or employee as alleged in such complaint and such finding is not reversed or otherwise invalidated by the judgment of a court, the City shall not provide reimbursement for expenses incurred by such official or employee in defending such complaint.

B.

If there is a finding by the Board of Ethics of a violation of the Code of Ethics by an official or employee, and a court enters a judgment reversing or otherwise invalidating such finding, such official or employee shall be reimbursed by the City for reasonable expenses incurred in the proceedings which resulted in the invalidation of the finding of the Board of Ethics and in defense of the complaint before the Board of Ethics.

§ 40-17. Clerk.

A clerk shall be provided to record the minutes of meetings and provide secretarial services to the Board.

Article III. General Provisions

[Amended 12-1-1980; 12-7-1992]

§ 40-18. Higher standards to prevail.

To the extent that any other law, including but not limited to any state, federal or local statute or regulation, ordinance, policy, rule, regulation, bylaw or order of any federal, state or local agency or official having authority to do so, requires a higher, greater, more exacting or more restrictive standard of conduct than is provided in this chapter as to any official or employee, such higher, greater, more exacting or more restrictive standard shall prevail and continue in full force and effect with respect to such official or employee.

§ 40-19. Effective date.

This chapter shall become effective December 1, 1980, provided that appointments to the Board of Ethics may be made prior to said date with terms to commence on December 1, 1980.